

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NELSON RIVERA-TORRES, ET AL.

Plaintiff

vs

CESAR REY-HERNANDEZ, ET AL.

Defendants

CIVIL 03-1689 CCC

ORDER

Although plaintiffs were given the opportunity to amend their complaint for the purpose of adding several Regional Directors, six months after plaintiffs were ordered to serve summons on these additional defendants the Court issued an Order on April 8, 2005 (docket entry 81) striking the additional defendants from the amended complaint and all allegations pertaining to them. The reason for this was that plaintiffs had been granted a September 30, 2004 deadline to serve these additional defendants and had been admonished that failure to do so could result in dismissal of the claims brought against them with prejudice. The Court found that the failure to comply with the Court's Order for a period of six months was inexcusable. Thus, at this stage, the only defendants in this case are César Rey-Hernández, José L. Aldanondo-Rivera and Santos Meléndez.

The Court has reviewed the companion case of Ruth Hatfield-Bermúdez v. César Rey-Hernández, et. al., Civil No. 01-2335(HL/GAG). A comparison of the allegations of the complaints filed in both cases reveals that they are based on an identical set of facts and legal theories. This case is an off-shoot of the Hatfield case resulting from the fact that Judge Laffitte did not certify that case as a class action.

The Hatfield case has been tried before Magistrate-Judge Gelpí. The minutes of September 3, 2004 before Magistrate-Judge Gelpí (docket entry 127 in Civil No. 01-2335) state that during the seventh day of jury trial, after Mr. César Rey-Hernández had testified as a witness for plaintiff Hatfield, she voluntarily dismissed with prejudice the complaint filed against him and another defendant. Dismissal judgment was entered on September 3, 2004

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(docket entry 128 in Civil No. 01-2335). On September 7, 2004, on the eighth day of jury trial, the Court granted a Fed.R.Civ.P. 50 motion as to all claims against defendant Santos E. Meléndez and two others, with prejudice (docket entry 129 in Civil No. 01-2335). The case continued as to co-defendant José Aldanondo and one other defendant. A verdict was rendered and post-verdict the Court entered a directed verdict and an amended judgment dismissing the claim of political discrimination against defendant Aldanondo (docket entry 191 in Civil No. 01-2335). The only compensation awarded was based on Article 1802 of the Civil Code of Puerto Rico. In sum, the 42 U.S.C. § 1983 claims against defendants Rey-Hernández, Meléndez and Aldanondo were either voluntarily dismissed or dismissed by the Court.

Given the dismissal of the federal claims in the Hatfield case against defendants Rey-Hernández, Meléndez and Aldanondo, the Court deems it reasonable to consider a dispositive motion regarding the federal claims against the same three defendants in this case. Considering the forty-three remaining plaintiffs in this case, defendants are GRANTED until SEPTEMBER 30, 2005 to file a motion for summary judgment and plaintiffs are allowed until NOVEMBER 30, 2005 to file their response.

SO ORDERED.

At San Juan, Puerto Rico, on July 29, 2005.

CARMEN CONSUELO CEREZO
United States District Judge